

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED

10/8/2019

Clerk, U.S. District Court
District of Montana
Helena Division

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KIELAN BRETT FRANKLIN,
GERALD ALLEN HILER, *a/k/a Teg*,
ARIELLE ROSE COWSER, and
MORGAN VICTOR PITSCH,

Defendants.

CR 19-06-H-SEH

ORDER

On October 7, 2019, the Court conducted a hearing on Defendant Franklin's Opposed Motion to Dismiss Count III of the Indictment. Upon the record made in open Court,


ORDERED:

1. Defendant Franklin's Opposed Motion to Dismiss Count III of the Indictment¹ is DENIED.

¹ Doc. 36.

2. The Clerk is directed to interlineate Count III of the Indictment to read as follows: "That on or about March 8, 2019, at Helena, in Lewis and Clark County, in the State and District of Montana, the defendants, KIELAN BRETT FRANKLIN, GERALD ALLEN HILER, a/k/a Teg, ARIELLE ROSE COWSER, and MORGAN VICTOR PITSCH, knowingly possessed a firearm in furtherance of a crime of violence that may be prosecuted in a court of the United States, namely, the crime alleged in count II of this indictment, in violation of 18 U.S.C. §§ 924(c)(1)(A)(i) and (ii), and 2."²

DATED this 8th day of October, 2019.


SAM E. HADDON
United States District Judge

² See *United States v. Miller*, 471 U.S. 130, 145 (1985) ("[W]here an indictment charges several offenses, or the commission of one offense in several ways, the withdrawal from the jury's consideration of one offense or one alleged method of committing it does not constitute a forbidden amendment of the indictment." (citing *Salinger v. United States*, 272 U.S. 542, 548–49 (1926))); See also *United States v. Wilbur*, 674 F.3d 1160, 1178 (9th Cir. 2012) ("The Court specifically rejected the argument that 'it constitutes an unconstitutional amendment to drop from an indictment those allegations that are unnecessary to an offense that is clearly contained within it.'" (quoting *Miller*, 471 U.S. at 144)); *United States v. Celestin*, 612 F.3d 14, 24–25 (1st Cir. 2010).